IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 321 of 2005

Between:

K. Venkateswara Rao, S/o. K. Krishnaiah,
R/o. 2-2-127/120, New Vijayapuri Colony, Hyderabad.

..... PETITIONER

AND

The Commissioner, Uppal Municipality, Uppal, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ of mandamus declaring the action of the respondent in not considering the representations of the petitioner dt. 7-1-2005 and 27-2-2004 and 27-12-204 for taking action to remove the encroachment made in Plot Nos. 131 and 132 to New Vijayapuri Colony, Uppal, as illegal, arbitrary and contrary to sanctioned lay out and consequently direct the respondent to forthwith consider the representations and take action for demolition of the encroached portion of the road shown in the layout by the owner of plot Nos. 131 and 132 and keep the road intact for use by the general public and to pass such other order or orders

Counsel for the Petitioner:MR.M.JANARDHAN RAO

Counsel for the Respondent : MR.P.RADHAKRISHNA

The Court made the following Oral Order : (per Sri Devinder Gupta, CJ)

The grievance of the petitioner is that Plot Nos. 131 and 132 are part of layout in of New Vijayapuri Colony, Uppal. The owner of plot Nos. 131 and 132, in the garb of the permission having been obtained for raising construction thereupon has made considerable encroachment to the extent of 100 sq. yards including the road and that representations were submitted on 27.12.2004 and 7.1.2005 to the respondent for taking appropriate action for removing of encroachment on Plot nos. 131 and 132. But, no action has been taken so far by the respondent. Therefore, directions are sought to the respondent to take action according to law for removing the encroachments on the plots in question.

Learned Standing Counsel for the respondent-Municipality has shown us the documents that Commissioner, Uppal Kalan Municipality on 1.12.2004 accorded sanction to Sri K. Ramaswamy and others on their application dated 27.11.2004 for raising ground floor and first floor on Plot Nos. 131 and 132, which are part of Survey No. 667 of Vijayapuri Colony, Uppal. Sanction was accorded on Building Application No. D/2069/2004 by proceeding No. D/BA/337/2004 and construction is being carried out thereupon.

There is no doubt that Municipal Authority will only accord sanction of layout, but when there is allegation made by a resident of the Colony of certain deviations from the sanctioned plan and of encroachment of adjacent lands, it becomes the duty of the Municipality to have a proper survey conducted of the land in accordance with law and to ensure that encroachment, if any, is removed in accordance with law by taking appropriate proceedings.

Accordingly, we allow the writ petition and direct the respondent that pursuant to the representations made by the petitioner, proper survey will be conducted by him within a period of two months from the date of receipt of a copy of the Writ order and in case it is found that there is encroachment, appropriate action in accordance with law will be taken promptly and such encroachments will be got removed and the road will be restored to its usual position.

Ordered accordingly.

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DEVINDER GUPTA, CJ

Date: 25th January, 2005

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M. NARAYANA REDDY,J

pnb

Note: Furnish c.c. in two days

B/o

pnb

To

1. The Commissioner, Uppal Municipality, Uppal, Hyderabad.

2. Two C.D. copies